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THIRD SESSION—NINTH PARLIAMENT

SPEECH

OF

MR. HENRI BOURASSA, M.P.

ON

SUPPLY - - STOCK EXCHANGE SPECULATION

OTTAWA, TUESDAY, JULY 21, 1903

Mr. HENRI BOURASSA (Labelle). Before you leave the Chair, Mr. Speaker, I wish to bring to the attention of the House a matter as to which I have already spoken. I refer to the operations of the stock exchange; and in order to indicate clearly what the scope of my argument is, I wish to state that I shall conclude with the following resolution:

That it is of urgent necessity to adopt effective measures in order to control stock exchange operations and check hazardous speculations which impair the financial security of Canada and the prosperity of its trade and industry.

At the end of the financial crisis which is still fresh in the memory of a good many in this House, the manager of the Bank of Commerce in Toronto stated that this slump was a necessity because people had gone so far in the way of stock speculation that nothing but such an acute crisis would tend to stop the evil. I do not dispute for one moment the opinion of this gentleman, but I believe that the financial régime under which such condition arose, is an evil towards the suppression of which the attention of the government should be called. In 1888, this parliament adopted 'An Act respecting gaming in stocks and merchandise.' (51 Vic. Cap. 42). This legislation was introduced by Hon. Mr. Abbott in the Senate and it passed through the House of Commons, then led by the late Sir John Thompson. When introducing that measure in the Senate, Mr. Abbott used words which may well be applied to the present situation. He said:

This evil has attracted the attention of public men, it has been animadverted upon very generally in the press of the country; and the evil has reached such proportions that it has become absolutely necessary to do something to check it.

Of course it may be argued now as it was argued then that we have no right to interfere with individual liberty and that speculation in itself is no crime. I admit that. But if wise speculation be no crime there is not the slightest doubt but that wild speculation is one of the most fertile causes of crime. I might well repeat the words which Sir John Thompson, then Minister of Justice, used in the House of Commons when he introduced the Bill:

I know from experience, and from applications which have been before me, that numbers of persons belonging to respectable classes in the community, are in our different penitentiaries now in consequence of bucket shop transactions, which led them on to embezzlement and frauds of different kinds. It is considered, therefore, in the interests of public morality that legislation of this kind should be adopted, and I do think this can be safely adopted.

To which the hon. member for North Norfolk (Mr. Charlton) added:

As the honourable Minister of Justice properly says, there are in our penitentiaries today men who have been sent there for crimes committed, the first step towards which consisted of the operations of gambling which are fostered by these bucket-shops, and in a still greater degree by the regular stock exchanges.

I am not here to endorse the opinion of the hon. member for North Norfolk, but I may say that the operations that were carried on at that time by the bucket shops are now conducted on a wider scale and in a worse form by the regular stock brokers; and if Sir John Thompson was right when he said in 1888 that the operations of the bucket shops were a most effective cause of crime, I say that the opera-

tions of the stock exchange, as they are carried on now, are an effective cause of crime, and that interference by the government is called for. If it is our duty to legislate against crime when it is committed, it is also our duty to legislate to prevent the commission of crime if we can.

There is not the slightest doubt also that it is our right and duty to legislate even against individual liberty when the exercise of that individual liberty degenerates into such a license as to imperil the national security of the country. The operations of the stock exchange, carried to the extent they have been carried for the last few years, are a menace to the financial security of this country. In the first place, not only regular banks, but savings banks, that have been established under the credit of the country, have gone so far as to lend money on the security of stocks which have been paid for on a very narrow margin of five or ten per cent. In the next place, a large number of financial or industrial institutions that are organized under joint stock capital have suffered and greatly suffered from the slump that was recently caused by the actual operations of the stock exchange. The result of this is deterrent to the investment of capital which otherwise would seek security in our industries. Moreover this stock exchange business puts our railways, our banks, our insurance companies and a large number of industries practically in the hands of people who hold shares of these institutions, not with the idea of making profits by the natural development of these industries; not with the idea of earning interest upon their shares because of the trade carried on by these companies; but who are simply expecting that the changes in the stock market will give them a chance to speculate on the rise and fall of these shares. Therefore, I say that it puts the titles of ownership of several of our basic industries within the hands of men who have no interest in the future prosperity and stability of these industries.

This stock speculation under present conditions is also a danger to our fiscal stability. We have had an example of this during the present session, when people have come to this parliament looking for a remedy because they had been ruined by wild speculation and had seen the shares which they held on very small margin taken out of their hands as soon as they were not able to put up the balance of the margin. Instead of doing what they would have done had their shares been paid in full; instead of going to the directors of the companies; instead of coming to the conclusion that the proprietors of any industry should look to its welfare; they have come to this government and have asked that by changes in the tariff, the decline in the price of their shares should be arrested, and their stock market value increased. I do not want to bring into the discussion the propriety of these changes in the tariff, but I do say that it is not of good omen for the stability of the fiscal policy of a country that a movement might at any time be created amongst the speculating classes, with the object of demanding a change in the tariff just to increase their gambling chances.

Now, Sir, the law of 1888 was directed against a thing which is described in subsection (a) of clause 1 of that Act. It says: Every one is guilty of a misdemeanour who

With the intent to make gain or profit by the rise or fall in price of any stock of any incorporated or unincorporated company or undertaking, either in Canada or elsewhere, or of any goods, wares or merchandise, makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the sale or purchase of any such shares of stock, goods, wares or merchandise, in respect of which no delivery of the thing sold or purchased is made or received, and without the bona fide intention to make or receive such delivery; and every one who acts, aids or abets in the making or signing of any such contract or agreement.

Now, Sir, what was Mr. Abbott's opinion on the matter? He was the author of the Bill, and I might say was, on legal as well as financial matters, one of the highest authorities in this country. He said:

The real difficulty in preparing a measure of this description has been to draw a line of distinction between the transactions which are carried on in the legitimate business of a broker and the transactions which are carried on in the way I have mentioned in those bucket shops. It is not alone in Canada that this distinction has been sought for; it has been inquired into and received the same solution in the United States where this species of gambling is very prevalent. . . . The distinction which I understand is a true one between bucket shop transactions and legitimate brokerage business is as stated to me by a leading New York broker who wrote me. . . . . The distinction which this gentleman draws, and which is to be found in the Acts of the States of Illinois and Ohio, is, that in one case the purchase is made with the intention of carrying it out as a bona fide transaction, the seller to make delivery. In the other case, there is no intention of making a bona fide purchase or sale.

Well, Sir, I say that ninety per cent of the operations now carried on under the regular brokerage system may be justly described as what Mr. Abbott in 1888 called the illegitimate operations of bucket shops; and I am going to prove it. I may add to Mr. Abbott's opinion the opinion of Sir John Thompson. He said:

I acquiesce fully in one of the opinions that has been expressed, that, if the transaction from which delivery would result, as the natural and legal consequence, it is not a transaction that would be interfered with by this Bill; but if the contract is one of which delivery forms no part at all, but which is simply between a pretended purchaser and a pretended seller of certain stocks, as to their rise or fall in a distant market within a given number of days, these acts are aimed at by this Bill, and I can confirm to the fullest extent what hon. gentlemen opposite have said as regards their evil effects.

There was opposition brought against the introduction of that measure. In the Senate, Mr. Abbott said plainly that he thought the measure was just what it should be, and should not be amended. But the opposition was stronger in the House of Commons; and, as Sir John Thompson said, naturally a good part of it came from the bucket shop owners, who did not want to see their business checked; but he said also that there was a certain amount of uneasiness among the brokers who carried on a legitimate trade. The same argument that will probably be used against my proposition was used then, that it was an attack upon individual liberty. Sir John Thompson gave way to a certain extent, and moved an amendment to Mr. Abbott's Bill, which he preceded with a few remarks, from which I will quote these words:

I may say that the Bill has received the endorsation of operators engaged in legitimate business in Montreal and Toronto. A certain portion, however, of the brokers in Montreal, engaged in legitimate business, have pressed strongly to have a few words added to the first clause of the Bill; and I am advised that the addition of the following words will meet the objections they raise:

The foregoing provisions (of this Act) shall not apply to cases where the broker of a purchaser shall receive delivery as above of the article sold, notwithstanding that such broker shall retain or pledge the same as security for the advance of the purchase money or any part thereof.

This amendment was introduced into the Bill almost verbatim, and stands now as the second paragraph of subsection (b) of section 1. It will be noticed that Sir John Thompson said that most of the regular stock brokers approved of this Bill. But, I think a great number simply wanted to get rid of competitors so as to carry on under the protection of the law the operations that were carried on by the bucket shops. I might say that one member of the House foresaw very clearly what was going to happen; I refer to the present Minister of Trade and Commerce (Rt. Hon. Sir Richard Cartwright), who said:

It seems to me that, according to that view, we will stop illegitimate gambling and will recognize legitimate gambling, with a certain amount put up. I agree with my hon. friend (Mr. Mitchell) that what we desire to do is to put down the bucket shops, and the only question which suggests itself to my mind is whether we do not leave a wide door open for the evasion of this Act. I am not sure that it is in the public interest to facilitate the purchase of stocks on small margins in any case, and, if we could do it, I am not sure that it would not be just as much in the public interest to stop that kind of gambling in stock on margins of five or ten per cent as to put down the bucket shops.

The only difference between the present situation and the situation at that time is that people are fleeced now just as much as they were then, but that the fleecers are fewer and bigger. They are directors of large companies; they are donators of hospitals; they are even members of the parliament of Canada; in fact, they occupy high positons; and, with those strange feelings that exist in every community, we pay to them the respect of considering them the basis of our financial status. We have been legislating against the bucket shop operators because they have been doing on a smaller scale and in a franker way what these high gentlemen are doing now. I say that nine-tenths of the operations now carried on upon the stock exchange are, according to the definition given by Sir John Abbott and Sir John Thompson, exactly similar, to the operations then carried on by the bucket shops. I say that nine-tenths of the operations now carried on between the brokers and their clients are performed without the slightest intention of ever carrying their bargains to an end—that the client never takes shares with the intention of paying for them, and the broker never expects that the client will pay for them. I say—and I am going to prove it by the records of one of the leading brokers of Canada—that in nine cases out of ten it is merely a question of bet. The only difference is this. Under the bucket shop system the client knew that he was betting; but now he does not know when the broker is betting for him or when he is betting against him, and he cannot know.

There was a legal case which created a good deal of sensation, not only throughout the province of Quebec, but throughout Canada, and I might say throughout the brokers' world; and I am going to refer to it at some length, because it gives us the whole scope of stock exchange operations. It is the case known as Forget vs. Ostigny. The defendant in the case was a young bank clerk of Montreal, who earned a salary of about $900 a year. It was established by the evidence that all he had outside of his salary was $2,100 worth of shares of the Bank of Hochelaga on which there was a lien of $1,400. He was an intimate personal friend of Mr. Rodolphe Forget, the chief accountant of Senator Forget, and now we may say the leader of that firm. Mr. Forget lent to this young man the money he required to buy his first shares; and the time came when Ostigny, who had no money and no more salary than he absolutely required to live on, held shares unpaid to the figure of $28,900 in the hands of Mr. Forget. He got tired of paying up margins and refused to pay any more. He consequently became ruined and insolvent, which perhaps did not matter much. Mr. Forget sued him for $1,927, being balance of account due on margin, commission, and so on. The cause of action originated before we adopted the statute of 1888; but as that statute has been quoted all through that case in the different courts, from the Superior Court of Montreal to the Judicial Committee of the Privy Council, it has a direct bearing

on our law. The defence was based on article 1927 of the Quebec Civil Code, which says: 'There is no right of action for the recovery of money or any other thing claimed under a gaming contract or bet.' The case came before the Superior Court of Montreal, and the learned judge who presided, Judge Pagnuelo, made an exhaustive review of the whole question and the different legislation governing stock transactions in France, England and the United States. He concluded by ruling that Mr. Forget's claim could not be maintained, as it was based on a pure gambling transaction. The case was taken to the Court of Appeals, and that court decided, Judge Hall dissenting, that the judgment of Judge Pagnuelo was a good one. Permit me to read extracts from the opinion given by the Chief Justice of that court, Judge Lacoste:

It is sometimes difficult to draw the line between speculation and gaming transactions. The business done by frequenters of the bucket shops does not leave any doubt. These transactions are always bets on the rise or fall. But elsewhere gambling transactions have often the appearance of serious contracts. Thus, a person sells a stock deliverable on a fixed day; the contract is lawful, but the circumstances of the case may show that the intention of the parties was not to give and take delivery, but only to gamble. . . .

The learned judge than analysed the evidence, which establishes that Forget bought different shares for Ostigny, lending him the amounts required and keeping the shares which he gave 'with others to a bank as collateral security for a loan which he was obtaining for himself.' He then proceeded to say:

It seems strange that the respondent, having instructed appellant to buy for him, did not take delivery, and that the appellant has not offered delivery. Forget, however, appellant's employee, tells us that the usage of the stock exchange permits a broker to do this, and that if the client does not ask delivery within twenty-four hours, the broker may borrow for the client on the security of the stocks which he has just bought and which he holds as a pledge. The client may at any time ask for delivery of the stock, but if he does not do so and neglects to pay the margin asked for, then the broker sells the stock and a settlement is made by the payment of the differences. The witness Forget tells us that respondent was acquainted with this usage. It results from this practice that the client does not take delivery of the shares, and that his responsibility is limited to the payment of the margin and the interest on the advances made by the broker. The instruction to buy, therefore, is not serious, but is only given to permit gaming on the rise or fall. Both parties understood it so.

Then the learned judge went on to show that the two parties, Forget and Ostigny, could not but know the exact situation, that the appellant (Forget) knew that the respondent (Ostigny) would not take delivery, and treated the shares as if they were his own property. He said:

The appellant ought to have known that respondent could not take delivery and that the custom which I have just mentioned would be followed. He understood this so well that he treated the shares as if they were his own property; he gave them to the savings' bank with other valuable securities as guarantee for loans which he obtained for himself, and he disposed of a number of them before he received respondent's order to sell them. His clerk tells us that on the 21st February, on respondent's order, he sold two hundred shares of the street railway company, and that he could not deliver more than one hundred and thirty-five, because he was short of the rest. If appellant really had held the shares as a pledge how could he transfer them to the bank as security for a loan not limited to the amount which he had advanced for the purchase of the shares? What text of law authorized him to dispose of the pledge? This treatment of the shares by the broker indicates that he considered himself the owner.

I ask any man who has any experience of business on the stock exchange, if this is not the history of nearly all the transactions carried on there? The result of that judgment alarmed not only Mr. Forget but all his confreres. What did they do? The amount at issue was too low to give them the right to appeal to the Privy Council, so they came to terms with Ostigny. They paid all his costs and even, I was told, gave him a discharge of the amount due, and then obtained his consent to an appeal to the Privy Council. In that case as in the case of Roy and the Canadian Pacific Railway, I regret that the Judicial Committee of the Privy Council should have been made, unwillingly I am sure, the instruments of parties whose object was to prevent the operation of Canadian law, and the government should see that something is done to prevent the Privy Council being made the instruments of such shameful transactions and agreements.

Mr. LEMIEUX. I would remind my hon. friend that Ostigny was not represented before the Judical Committee of the Privy Council.

Mr. BOURASSA. No, he was not. The only party represented was Mr. Forget and he got a judgment ex parte. But although I am very unworthy of appreciating the judgment and common sense of the members of the Privy Council, I feel impelled to say that there are such striking errors in their judgment in this case, that I am warranted in saying that they came to a decision without really knowing the facts. According to the evidence, at a certain moment during the time he was speculating, Ostigny asked for delivery of 200 shares of the Montreal Street Railway, and Forget said he could not make a delivery as he only had 135. Yet in the face of that evidence, which was reiterated in the opinion delivered by the Chief Justice of the Court of Appeals, what did the Lord Chancellor hold? He said:

When the shares purchased for the respondent were sold they were redeemed from the bank and delivered to the purchaser.

That was contradicted by the evidence.

The contracts made, which were unquestionably within the authority given by the respondent, were certainly not gaming contracts as between the parties to them. They were real transactions; the shares purchased and sold were in every case delivered, and the price of them paid or received, as the case might be.

So that their lordships of the Privy Council based their judgment on an assumption which is clearly disproven by the evidence of Mr. Forget's employee.

The year following an exactly similar case was taken before the Law Lords. This was a suit taken against a regularly organized company, the Universal Stock Exchange Company, by one of their clients, one David Strachan. But the situation here was not exactly so favourable to the brokers, because instead of being the party taking out the suit, they were the defendants. Strachan sued to get hold of some security, and the case came before a judge and jury. Judge Cave, who presided, said:

A man goes to a broker and directs him to buy and sell so much stock as the case may be. That may be, in the eye of the purchaser, a gambling transaction, or it may not. If he means to invest his money in the purchase of the stock which he orders to be bought, that undoubtedly is a perfectly legitimate and real business transaction. If he does not mean to take up his stock, if he means to sell again before the settling day arrives, that may be a gambling transaction so far as he is concerned, but it is not necessarily a gambling transaction so far as the broker is concerned; and in order to be a gambling transaction such as the law points at, it must be a gambling transaction in the intention of both parties to it.

Now, the record in that case proved that there was a signed contract between the brokers and the client. Several of the clauses of that contract—I am not going to worry the House with it, though I have it here provided that the contract was made for the purpose of delivering shares, that the natural and legal result of the contract would be the delivery of shares through the broker to the client. Nevertheless, the jury decided unanimously that it was a case of gambling. The case was taken before the Law Lords. The counsel of the client did not appear, and the case was pleaded ex-parte by the counsel of the brokers, and one of the authorities they invoked was the judgment that had been rendered by the very year previous by the Judicial Committee in the case of Forget and Ostigny. But the Law Lords, I must say, did not pay the slightest attention to that judgment. I have here the judgment delivered by Lord Herschel and ratified unanimously by the Law Lords. I may say, before I quote from this judgment that the counsel for the stock brokers invoked that contract I have just mentioned, and said that whatever might be the amount of risk that was run by the client of the broker the contract entered into was an undertaking for the delivery of shares. Referring to this Lord Herschel said:—

It has been said that wherever a contract is entered into between two parties containing an obligation under any circumstances to cause property to pass from one to another, whatever else there may be in the contract, and although neither of the parties contemplated that that provision should ever become operative, yet, if it ever may become operative, the contract cannot be by way of gaming and wagering. The proposition amounts to this, that parties who intended to gamble with one another, but wanted to have the security against one another of being able in a court of justice to recover their bets, could compel a court of justice to adjudicate and secure to them their bets by a judgment, if only they inserted in their contract a provision which might in certain events become operative to compel the goods to be delivered and received, although neither of them anticipated such a contingency; the purpose of inserting the provision creating an obligation being only to cloak the fact that it was a gambling transaction, and enable them to sue one another for gambling debts. The proposition contended for by the learned counsel for the appellants would really lead to that result, and I should require much consideration before I gave my assent to a proposition involving such consequences.

I quite understand why Lord Herschel and his colleagues of the Law Lords' Committee of that day did not refer to the judgment given by the Judicial Committee in the case of Ostigny and Forget. They were opposed to that judgment in toto and therefore passed it over in silence. But what is the difference between the transactions that are carried on here and the transactions adjudicated upon by the Law Lords? The difference is simply that here there is no written contract saying that the intention is to make delivery. But I have said, and I repeat, that nine-tenths of the stock exchange operations carried on are not carried on, as Lord Herschel said, for the purpose of selling on one side and buying on the other, but for the sole purpose of gambling; and the delivery of the goods is regarded only as an incidental matter. In fact, I am sure that I am within the mark when I say that nine-tenths of the people who go into stock exchange operations pay their stock in full only when they are forced to do so. In nine cases out of ten they simply pay their money in the hope that it will bring them some return by the rise in the value of the shares.

Now, Sir, I have insisted at length on this case, because, as I have said, it gives the exact situation of our operations. Therefore, in the opinion of the authors of the law of 1888, and in the opinion of the Court of Appeal of Montreal, in the opinion of the Law Lords of England,—and, I may add, that this would have been the opinion of the members of the Judicial Committee, if, instead of a case of conspiracy, they had had a case legally and honestly and properly pleaded—we ought to legislate now. And I may add that the only Canadian judge who differed from his colleagues on the question, Judge Hall, added these words in

his judgment, which, I think, place a heavy responsibility upon us, who have the legislative power in our hands:

The fact that speculation in stocks has been indulged in improperly by those who cannot afford the risk, is not a sufficient reason, in my opinion, for attempting to correct the abuse by exceptional interpretation of general laws. It will be admitted, I am sure, that the natural remedy, if one is to be attempted, is by legislation.

And that is what I am asking the minister to consider.

In what way are operations now carried on? I take here, out of a thousand, just as an illustration, one transaction which a friend has communicated to me within the last few days. During the first days of January, he bought 100 shares of Dominion Iron and Steel at 61, making $6,100. On the 18th of March, he bought 100 shares of the same stock at 36½, making $3,650; or a total for the two transactions of $9,750. He went on paying margins until the crisis reached its accutest point when he decided to pay the whole thing and take his certificates. He received his certificates on the 16th of June. On that day the quotation, according to the Montreal 'Gazette,' was 13½ at the highest and 12¾ at the lowest. Take the highest figures, and we find that his titles, according to the quotations of the stock exchange, were worth $2,700, while the titles which he bought through his broker were worth $9,750. We are asked to believe that the broker really bought 100 shares in January, and that he really bought 100 shares more on the 16th of March. But we have no evidence of it; and I shall show that in many cases, this is not done. But, supposing (as it might be, and as I will prove it has been in other cases) the broker did not buy the shares, this would mean that the broker has received from my friend $9,750 and he has given him titles that cost him $2,700, pocketing the difference of $7,050. It may be said that my friend could have told the broker: 'This is not what I bought from you, therefore, give me back my money.' What would have been the reply of the broker? First, he would have invoked, naturally, clause 4 of chapter 45 of 51 Victoria, our Act on gambling, which provides that in any prosecution under this Act the person accused shall be a competent witness on his own behalf. He would have gone to the court and there would have shown the amendment I read at the beginning of these remarks, introduced by Sir John Thompson at the request of the brokers, and would have said he had bought these shares and kept them as the agent of the purchaser, being ready to deliver the goods at any time.

But how could he prove that? Not by producing the shares, but by producing his books. He would prove naturally that on such a day in January he bought 100 shares of Dominion Iron for Mr. so and so; that on the 18th of March he bought 100 shares of the same stock for the same party. He would prove by another page that on the same days he held 400 or 500 shares of Dominion Iron, and therefore, that he could, on either days, hand to my friend the shares he bought. But how will you ascertain the number of shares of the same stock which that broker was supposed to hold at the same moment? While his ledger shows on one page that he held 500 shares, it might be that he was accountable for 100 shares to one of his clients, for 200 shares to another, for fifty shares to another, and 300 shares to another, which would make a total of 650 shares. He would have enough to meet the request of anyone in particular, but he would not have enough to cover the whole. It amounts to this, that in actual practice, the brokers hold a number of shares, sufficient, in their calculation, to face the probable requisitions of their clients, but do not mind not having on hand the total number of shares for which they have collected a margin, and upon which they go on collecting interest and additional margin. This came out openly in the case of Forget vs. Ostigny. The broker was obliged to admit that he had only 135 shares in hand when his client asked for a delivery of the 200 shares he had bought. Meanwhile he had collected margins, not only upon the 135 shares he held, which perhaps belonged to another man, but he also collected margins on the sixty-five shares he had not. I think I was quite right when I stated that this kind of speculation is a worse kind of robbery than what was done under the bucket shop system, and that if there was need of legislation then there is still more need now.

Now, another abuse comes from the fact that the brokers are now in many cases directors of large companies. What is the result? They are interested not only in following the general movements of the stock exchange, their interest is not only to induce their clients to buy and sell stock in general, but their interest is also to use their clients for the benefit of the company of which they are directors. Therefore, they will advise them with a mysterious air of business prophecy: 'Buy such a stock, it is good, it is very good, and it is going to go up.' Naturally it does go up, because he will say the same thing to fifty other innocent people who want to buy, and who rely upon him as their financial adviser. But if he wants to acquire a certain stock and strengthen his position in a company in which he is interested, he will say: 'I am afraid of that stock: I am a director in that company and I know what is going on. But don't mention it to anybody. I am afraid the stock will go down.' Naturally the poor fellow, thinking that he is being advised by his best friend, who wants to make him wealthy, he repeats this under the same secret, in the same confidence, to fifty other people. Twenty days after the stock

will go down and the director acquires cheap shares at the expense of the clients of his broker's office.

Of course, sometimes they are bitten themselves. The slump is stronger than was suspected and it is then, when the brokers are cornered up, that they are not only able to speculate against their own clients, but in order to save themselves and their clients, they are forced to speculate against those clients and collect margins on shares which they do not possess.

Then there is another danger when those directors happen to be rivals, and they create a slump on the market to take revenge upon each other. As I am disposed to call people by their right names, I may remind the House of what happened between Mr. Ross, the vice-president of the Montreal Street Railway Company, and Mr. Forget, the vice-president of the Dominion Iron and Steel. Mr. Ross sold all his stocks in the Montreal Street Railway and Mr. Forget sold all his stocks in the Dominion Iron and Steel, which caused a slump. Now to show you what brokers who happen to be directors of companies are apt to do, I will quote you a telegram that was received by a friend of mine during the last slump. He had bought 200 shares of Montreal Street Railway on the Montreal market. He paid the margins for several days. One day he got tired and he caused his agent in Quebec to wire to a Montreal broker to sell his shares in the Montreal Street Railway Company for such a figure, which he quoted. The shares were not sold. Instead of that he received a request for still more margins. He replied ordering to sell at prices quoted at the stock exchange, and here is the reply that came:

Cannot sell stock at all, quotation is put there to support the market.

Now, Sir, either one of two things, either the brokers lied to my friend or they lied to the public on the board of the stock exchange. If the telegram stated the truth, the public was humbugged as to the value of the Montreal Street Railway Company's shares. If the quotations were accurate, the broker had evidently already sold my friend's shares and collected margins after the sale and was unable for the time being to pay the proceeds of the sale.

Now, Sir, last fall, there was a newspaper quarrel in Montreal that attracted a good deal of attention, a quarrel between 'Le Journal' and 'La Presse,' between 'Le Journal' which is kept up by Senator Forget's money, and 'La Presse,' which is edited by Mr. C. A. Dansereau. I need not make the House acquainted with either of those two gentlemen, they are well known. Neither will I repeat any of the sweet names that they exchanged between themselves, of which 'robber,' 'brigand,' 'pirate' on one side, and 'traitor,' 'spunger,' 'drunkard,' on the other side, were among the sweetest. I will simply confine myself to the accusations that come within the scope of my arguments. First Mr. Dansereau accused Mr. Forget of having sold without notice $4,000 worth of shares that were held by the late Sir Adolphe Chapleau. Mr. Forget denied that and replied that his books were open and that if Mr. Dansereau would come and examine them he would find even some profits that Mr. Dansereau himself had made. I will read a short extract from Mr. Dansereau's reply, in French, and then translate it into English:

Je ne trouverais dans vos documents ni les conseils donnés à vos clients, ni leur rage, ni leur déception. Rien ne me dirait si vous achetiez pour vous les bons lots dans la baisse, plusieurs jours avant de faire acheter les autres à la hausse. Je n'y trouverais pas, non plus, si vous les faisiez vendre à la veille d'un essor, je n'y découvrirais aucun indice de la défense formelle et persistante que vous aviez imposée à tous vos clients de toucher au Dominion Coal et au Steel. Nous avons vu le rare spectacle d'un directeur jouant contre le crédit de sa compagnie.

Mes transactions avec vous ne furent pas longues et intéressent peu le public. Vous fûtes assez bon pour m'acheter du Pacifique en échange d'une information, d'un "tuyau", et vous m'écriviez que j'avais réalisé, je ne sais trop, probablement $1,200. Vous savez que je ne les touchai jamais.

Here is the translation:

I should find in your documents neither the advices given to your clients, nor their anger, nor their deception. Nothing would show me whether you bought good lots on a decline several days before selling others on the rise. Neither should I find whether you sold them on the eve of a rise, nor should I discover any indication of the formal and persistent prohibition which you had imposed upon all your clients from touching Dominion Coal and Steel. We have seen the rare spectacle of a director playing with the credit of his company. My transactions with you were not long and of little interest to the public. You were good enough to buy Pacific for me in exchange for a pointer I gave you, and you wrote me that I had realized, I do not know how much, perhaps $1,200. You know that I never received it.

I regret I cannot translate exactly the word 'tuyau.' The literal translation is 'pipe.' It is a very expressive slang word, which means a valuable information received and given secretly. Mr. Forget avoided carefully to repel the accusation that he was gambling against the company of which he was a director; but in reply to the other charge, he stated that he had never bought Canadian Pacific Railway stock for Mr. Dansereau, in London, and he had only bought some shares in New York out of which Mr. Dansereau had realized a profit of $418. Mr. Dansereau then had a photograph taken of the memorandum that came from the Forget house and he had it printed in 'La Presse.' I will read that memorandum. It is as follows:

MEMORANDUM.

From L. J. Forget & Co.,
Stock Brokers,
Members of the Montreal Stock Exchange.
325 Notre Dame Street,
Montreal, July 27, 1885.

To C. A. Dansereau, Esq.,
City.

To purchase of 225 shares of Canadian Pacific in New York at 37⅞ plus ¼ B..	$8,465 63
By sale of 225 shares Canadian Pacific in New York at 39¼..	8,971 88
Profits—less..	$ 506 25
Six per cent interest..	88 08
Net profits..	$ 418 17

N.B.—175 shares bought in London, England, at 38⅞ sold at 47 to be settled when settlement of London broker is received which will be about August 5th.

The translation is as follows:

The photogravure published by your confrere is but a memorandum. It is not a contract——

Nobody had ever claimed it was a contract

—our signature does not appear. It was but a note we gave to Mr. Dansereau, explaining to him the transaction that we had closed for him.

And here is the point to which I want to direct the attention of the House.

One can see the buying up of 225 shares of the Canadian Pacific Railway. I had bought much more than that and had given to Mr. Dansereau the benefit of those 225 shares. This gentleman had realized a profit of $418.17 as the same appears by the memorandum dated the 27th July, 1885.

So this interesting correspondence establishes this fact: that Mr. Forget bought, himself, in New York, for Mr. Dansereau, 225 shares amounting, as I have said, to $8,465.63 and he caused to be bought in London 175 shares, amounting to $6,784.25, the total value of the stock being $15,246.88. In the same correspondence, Mr. Forget says all along and Mr. Dansereau admits it, that Mr. Dansereau was insolvent. So, we are told that Mr. Forget bought over $15,000 worth of shares and that he expected Mr. Dansereau to pay for them when he knew he was insolvent? That this was a purely gambling operation is clearly established, first, by the fact which I have just stated of the insolvency of the purchaser. Then, according to Mr. Forget's own statement, he bought a great number of shares of Canadian Pacific Railway stock in New York and simply acknowledged a profit on 225 of these shares, which, I suppose, was his valuation of the 'tuyau,' and gave a credit memorandum which looked as if he had purchased nominally 225 shares for Mr. Dansereau. But, for ordinary clients, who do not deal in 'tuyaux,' who could not and would not sell important political secrets, what guarantee have they that, instead of making them share in his profits, Mr. Forget did not make them share in his losses, and still worse that sometimes he was not gaining while they were losing?

There is nothing in the law and there is nothing in the practice to indicate that brokers are not betting and speculating against their clients; but on the contrary, they may do so with the greatest facility. Although they may be the most virtuous and disinterested class in the community, we should not expose their virtue. Besides, I say, that, in times of slumps, it cannot be otherwise than that they should speculate against their clients.

It is not only in the similar kind of speculations that the regular brokers are emulating the old bucket shops' keepers. In those days there was the 'ticker,' a kind of telegraph instrument which enabled the broker in a small town to pretend that he was keeping in contact with the stock exchange. The ticker has been abolished but some of the brokers in Quebec have adopted a new system. They have commercial travellers going into the country towns and inducing the people to gamble, telling the merchants and farmers to buy shares of this stock or of that, and endeavouring to make them believe that in a few days they will make money. The evils that existed before 1888 are existing now, but only to a greater extent and with much more serious consequences.

I may be asked: Why are the authorities not enforcing the present law, chapter 42, of 51 Vic? It may also be said that if the law at present is not operative it will be difficult to apply a more stringent law. I am going to reply shortly to these objections. First, it must be remembered that the statute as it at present exists was nominatively directed against bucket shops. It says, in the preamble:

Whereas gaming and wagering on the rise and fall in value of stocks and merchandise are detrimental to commercial and public morality and places affording facilities for such gaming and wagering, commonly called 'bucket-shops,' are being established, etc.

So that many people will be stopped by the very wording of the preamble from using the law against ordinary stock speculation. Then, the circumstances are different. When that law was introduced, Sir John Thompson very properly said that what was aimed at then was the wild speculation on real goods that was going on, that the law was made not with the idea of controlling the exchange of shares of joint stock companies, but with the purpose of preventing stock gambling in merchandise. Under these circumstances it is not operative to a certain extent. Take the statement of Sir John Thompson as to the effect of the law, the amendments that I have mentioned, and still worse the judgment which the Privy Council has given since that time, and which I have analysed and which has rendered the

law perfectly negative. Hon. gentlemen will see that it is inapplicable to the present circumstances. I hope, if another case were brought before the Privy Council, it would be pleaded as it should be pleaded, without being preceded by a conspiracy such as I have described, and that the judicial committee of the Privy Council would find a way to change the jurisprudence ; but as it stands, it is impossible to apply the law of 1888, in view of the judgment that has been given. Then I add—and I think this is the strongest argument—that so long as we have but punitive laws it will be impossible to stop that evil. You cannot have a punitive law applied to a particular evil unless public opinion admits that that particular evil is a crime. The public at large are not interested in this, and a great number who are interested are something like the gamblers in other things : some of them are not disposed to have the law changed, and others say that evil exists in every country and it is useless to try and stop it in this. It is also argued that it will be impossible to convince a great many people, and even the judges themselves, that speculation in itself is a crime and that therefore it is useless to apply a punitive law.

What we need is an administrative law ; a law that will not prevent legitimate speculation, but a law that will minimize speculation ; a law that will regulate speculation and that will establish a basis of some kind for stock exchange operations, and in consequence prevent wild speculation. First of all, I believe that stock brokers should conduct their business under the authority of the law, just as hotel keepers do, and just as in large cities people who keep houses that are not considered to the credit of the community, but are necessary to a state of corruption, must keep these houses under the guidance of the law. Stock brokers should take out a license. I do not say that they should be appointed by the government, because that was tried in France and proved to be a failure. But stock brokers should take out a license so that we may know who is conducting stock exchange operations, and so that nobody else shall be authorized to carry on the same trade.

Then it should be made a provision of the law that no large company, whether incorporated by parliament or under the seal of the Secretary of State, can elect as a director a licensed stock broker. Then again, stock brokers should have no right to speculate for themselves, but should content themselves with the profit arising from the speculation of their clients. If speculation is made by them under a false name it should be assimilated to conspiracy.

Then the question of margin comes in. I must say that I share the opinion which was expressed by the Minister of Trade and Commerce fifteen years ago, that so long as we allow speculation on narrow margins, it will be very difficult to stop the evil. I believe it would be impossible at the present time to declare that no transfer of shares could be made unless they should be paid for in full, and it might not be wise to enact that now ; but it should be at least declared that no transfer of shares can be made unless they are margined to the extent of at least 25 per cent of their value. This system of purchasing on small margins is the greatest cause of slumps. Shares of good and bad stocks are bought in large quantity by people who put all the money they have on a small margin, and who, therefore, take the greater risk, because they expect the greater profit. They buy on these small margins just for the purpose of selling as soon as the shares rise in value ; and this gives the greatest opportunity to the 'bears,' because when they want to run down a stock they know that thousands of shares of that stock are in the hands of people who cannot hold them and who are bound to sell the moment they go down a few points. When the bears make a raid, and the stock goes down three or four points, these people are forced to sell, and then the slump begins. The next day those who are a little stronger on the market will be forced to sell, and within a week or ten days the different grades of these small speculators will be wiped out ; and such will be the decrease in the value of shares caused by putting so many on the market, that the bona fide holders of the stock, who invested with the idea of becoming part owners in that property, will also be wiped out of their holdings. Therefore, the larger the margin you provide for, the safer you will make the speculation. If the stock is fully paid up, or if it is paid up to a large extent, the stockholders will look to the directors for a profitable administration of the concern. They will look to the directors of the company for their security, instead of looking to Mr. Forget or to Mr. Ames to make them gain upon stocks that perhaps Mr. Forget or Mr. Ames are interested in running down.

In the fourth place, I would advise the Minister of Justice and the government to give some attention to the existing law concerning joint stock companies. I am told, although I hope it is not the case, that at present the Secretary of State issues under the Great Seal of Canada letters-patent authorizing the directors of companies of various kinds to issue paid-up stock to almost an unlimited amount. I need not say what a cursed operation this issue of paid-up stock is. We all know what was the result in the case of the Dominion Iron and Steel Company. This company had already obligations for more than its property was worth, and just because it pleased its directors, they made a new issue of $5,000,000 worth of common stock at 60 per cent. It was not because it was worth 60 per cent, but just because they decided, under

their authority, that it was to be sold at 60 per cent. And when two of the kings of the financial world, Mr. Ross and Mr. Forget, decided to quarrel and to make the shareholders pay for their quarrel, the stock was run down to 12 or 13 per cent. I therefore say that there should be no authorization given to any company authorized by this parliament or by the Secretary of State, to issue stock or obligations for anything else than real worth, which would in itself justify such issue of stock or obligations.

I would also advise that the law should provide that no transfer of shares would be valid unless the transfer bore the name of the seller and the purchaser and the date of the transfer, so that we would not have these pretended sales that are now carried on, and so that when the speculator on margin would come to pay in full for his shares he would receive the shares that he bought and not the shares that the stock broker bought when it pleased him or paid him to do so.

Then the law should provide that at least the savings banks, if not all the banks; at least the savings banks that are authorized by this parliament under the credit of the country and which receive the money of the workingmen and the poorer classes, should be debarred from being a party to these speculations, and while they refuse to accept a good note signed by an honest and solvent man, endorsed by another honest man, for say $500, they will not be permitted to lend $50,000 to Mr. Ames or Mr. Forget, who will give them as security shares that are not their own property, but which belong to other people, and with which they play football all the year round. At all events, no bank, whether a chartered bank or a savings bank, should be authorized to lend money on stocks that are not margined to at least 25 per cent of their value.

It may be said that these suggestions would to a large extent stop the operations of the stock exchanges. I am not a high financier and I cannot say what the result would be if stock exchange operations were limited, but I share in the opinion of the member for North Norfolk (Mr. Charlton) when he said, that these operations could be greatly curtailed without any detriment whatever to the community. I have always thought that the idea that people should be left to speculate as widely as they want is a wrong idea, kept up by stock brokers for their own purposes. Even the people who have been fleeced by them are accomplices of such a false opinion. At any rate no damage will be done to legitimate speculation if the hand of the law separates the good from the bad, the robbers from the robbed, and protects those who are fleeced from those who fleece them. I have spoken at great length and it may be that the newspapers will say of me, as they said a month ago, that I speak feelingly because I have been injured by these people. I wish to say, not because it is of any importance, that I have never in my life had any dealings with stock brokers, that I have never speculated, that I do not even know what it is to speculate, except by the sad relations which I have received from people who are just as intelligent, just as honest, just as good business men as those who have robbed them under the protection of the law